

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

JAMES EUBANKS,

Petitioner,

v.

CIVIL ACTION NO. 5:21-cv-00351

D. L. YOUNG,

Respondent.

ORDER

Pending are Petitioner James Eubanks' Petition for a Writ of Habeas Corpus [Doc. 1], filed June 17, 2021, and Respondent's request for dismissal [Docs. 7, 10]. This action was previously referred to the Honorable A. Eifert, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Eifert filed her PF&R on May 5, 2022. Magistrate Judge Eifert recommended that the Court dismiss the Petition, grant the respondent's request for dismissal, and remove the matter from the docket of the Court.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent


objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on May 24, 2022. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 11**]; **DENIES** Mr. Eubanks’ Petition for a Writ of Habeas Corpus [**Doc. 1**]; **GRANTS** the request for dismissal [**Docs. 7, 10**]; and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: July 1, 2022




Frank W. Volk
United States District Judge